

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MIKE HIBDON, as Personal Representative)
of the Estate of Audrey Hibdon-Hotopp,)
Plaintiff,)
v.) Case No.: CIV-14-351-M
FARMERS INSURANCE COMPANY, INC.,)
Defendant.)

**NOTICE OF REMOVAL BY
FARMERS INSURANCE COMPANY, INC.**

COMES NOW, Defendant, Farmers Insurance Company, Inc. (hereinafter “Farmers”), and pursuant to 28 U.S.C. §§ 1332 and 1441 submits this Notice of Removal of the referenced action from the District Court of Oklahoma County, State of Oklahoma, to this Court. In support of its notice of removal, Farmers states as follows:

1. On March 18, 2010, Plaintiff filed a Petition in the District Court of Oklahoma County, State of Oklahoma, against Farmers. The case was assigned Case No. CJ-2010-2342 (“the first State Court Action”).

2. The first State Court Action was subsequently dismissed without prejudice on September 19, 2011.

3. On September 19, 2012, Plaintiff re-filed a Petition in the District Court of Oklahoma County, State of Oklahoma, against Farmers. The case was assigned Case No. CJ-2012-5929 (“the second State Court Action”).

4. On January 25, 2013, the case was dismissed without prejudice by the court

for, failure to issue summons or file a waiver within ninety (90) days of the date of filing of the petition or alias summons was not issued within thirty (30) days after return of the summons not served as required by Rule 9(A) of the Supreme Court Rules for the District Courts; however, the dismissal was vacated on February 6, 2013.

5. A copy of the summons was received by the Insurance Commissioner as designated agent for service of process of foreign insurance companies doing business in the State of Oklahoma on March 13, 2014.

6. Farmers subsequently received notice from the Insurance Commissioner of the summons and Petition on March 13, 2014.

7. The Notice of Removal is being filed within thirty (30) days after service. The Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

8. Farmers is an insurance company with its principal place of business in either the state of California or the State of Kansas.

9. Plaintiff is a citizen of Oklahoma County, Oklahoma.

10. Plaintiff is asserting claims alleging breach of contract and breach of the duty of good faith and fair dealing. Plaintiff is claiming damages for financial loss, mental distress, emotional distress, and “other” damages. Based on these allegations, it is clear Plaintiff’s claims are for an amount in excess of \$75,000.

11. The diversity and amount in controversy requirements of § 1332 are met in this case and removal to the United States District Court for the Western District of Oklahoma is therefore proper under § 1441.

12. Pursuant to 28 U.S.C. § 1446(a) and LCvR81.2 a copy of the original

Petition filed in the second State Court Action, Oklahoma County District Court Case No. CJ-2012-5929 is attached as Exhibit "1," a copy of the docket sheet of the case is attached as Exhibit "2," and copies of all remaining documents filed or served in this case are attached hereto and marked collectively as Exhibit "3."

13. Additionally, a copy of the original Petition filed in the first State Court Action, Oklahoma County District Court Case No. CJ-2010-2342 is attached as Exhibit "4," and a copy of the dismissal without prejudice is attached as Exhibit "5."

Respectfully submitted,

/s/ Michael D. Duncan
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CERTIFICATE OF SERVICE

This is to certify that on the 10th day of April, 2014, I served a copy of the foregoing document by United States Mail, postage prepaid, addressed to the following and I electronically transmitted the attached document to the Clerk of the Court using ECF System for filing. Based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following recipients:

Paul E. Quigley, OBA No. 7367
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Attorney for Plaintiff

/s/ Michael D. Duncan